

Temporary Employees and the Affordable Care Act Guide

Affordable Care Act and Employer Shared Responsibility Penalties

The Affordable Care Act (ACA) includes several new requirements for employers and their group health plans. One of the provisions of ACA is the Employer Shared Responsibility (ESR) mandate. In this provision, employers that do not meet the description below will be liable for the corresponding penalty.

Description	Penalty for 2015
Employees working 1,560 hours in a 12 month consecutive period, receives a premium tax credit to help pay for coverage on a Marketplace, which may occur because the employer did not offer coverage to that employee or because the coverage the employer offered that employee was either unaffordable to the employee or did not provide minimum value.	\$3,000/ employee fitting the description.

What this means for our Departments and Agencies

Due to the potential assessment of hundreds of thousands of dollars in penalties to the State of Vermont, it has become imperative to ensure that agencies / departments are aware of ESR and the associated risk. Currently the concern for the State is related to employees that are not eligible for benefits such as our temporary employees. To ensure that we are minimizing penalty liability to the State while adhering to the Vermont State law governing the use of temporary employees, the Department of Human Resources has revised the temporary position hiring process and added additional structure to support ESR and ACA compliance. Please note the following changes that apply to your agency / department.

- Departments and Agencies must complete a “Temporary Position Request” form prior to hiring a temporary employee.
- Departments and Agencies should read and be aware of 3VSA § 331 regarding the 1,280 hour limit in the number of hours each temporary employee can work during a calendar year.
- Temporary positions must be posted through VTHR unless there is an MOU between DHR and the hiring department allowing decentralized recruitment or in the rare instance of a direct hire.
- Departments and Agencies who are seeking temporary employees to work more than 1,280 hours in a calendar year must complete a “Request for Waiver of Temporary Employee Hours”.
- Departments and Agencies who have temporary employees working up to or beyond 1,560 hours in a 12 month consecutive period **will be liable** for any penalties assessed for that employee as outlined in the ACA ESR provisions.